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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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11 DANNIE RAY HILLHOUSE,

12 Petitioner,

13 v.

14 ROBERT AYERS, JR.,  
15 Warden of San Quentin State Prison,

16 Respondent.  
17 \_\_\_\_\_/

No. CIV S-03-0142 MCE CMK P

**DEATH PENALTY CASE**

**ORDER**

18 Before the court is respondent's application to file a surreply to petitioner's  
19 response (Doc. 132). On April 18, 2007 the undersigned issued findings and recommendations  
20 recommending that respondent's motion to dismiss be granted in part and denied in part. In  
21 response to the findings and recommendations issued, both parties have filed objections and  
22 replies to the objections.

23 Specifically, respondent filed objections on April 26, 2007 (Doc. 104). Petitioner  
24 then filed a response to respondent's objections on April 29, 2007 (Doc. 108). Respondent then  
25 requested, and was granted permission, to file a surreply, which was filed on May 16, 2007 (Doc.  
26 112). Petitioner then requested, and was granted, permission to file a surresponse and errata,

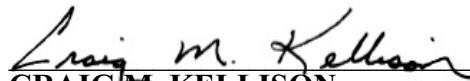
1 which were filed on May 22, 2007 (Docs. 123 & 124). In addition, petitioner filed objections to  
2 the findings and recommendations on April 29, 2007 (Doc. 107). Respondent filed a response to  
3 petitioner's objections, following an order granting an extension of time, on June 5, 2007 (Doc.  
4 128). Petitioner then filed a reply to respondent's response on August 5, 2007 (Doc. 131). Now,  
5 respondent has filed a request to be allowed to file a surreply to petitioner's reply (Doc. 132).  
6 Petitioner has also filed a response to this surreply (Doc. 133).

7 The court has discretion to make such orders it may deem appropriate in the  
8 interests of justice and case management. See E.D. Cal. Local Rule 1-102(d). As such, the  
9 undersigned finds that the parties have been given substantial leeway in briefing the court in  
10 regards to the findings and recommendations. Nevertheless, respondent's application for filing a  
11 surreply (Doc. 132) will be granted. The Clerk of the Court will be directed to file the surreply  
12 attached to the application. In addition, petitioner's response to respondent's surreply (Doc. 133)  
13 will likewise be allowed. The parties are cautioned, however, that further briefings on this issue  
14 are discouraged. The court considers this matter fully briefed and submitted.

15 Good cause appearing, IT IS ORDERED that:

- 16 1. Respondent's request to file a surreply (Doc. 132) is granted;
  - 17 2. The Clerk of the Court is directed to file the surreply, which is attached to  
18 respondent's application (doc. 132) as Attachment A; and
  - 19 3. Petitioner's response (Doc. 133) is allowed.
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21 DATED: August 31, 2007.

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24 **CRAIG M. KELLISON**  
25 UNITED STATES MAGISTRATE JUDGE  
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